

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SHELTER ISLAND YACHTWAYS, LTD., a
California Limited Partnership, dba SHELTER
ISLAND BOATYARD,

Plaintiff,

v.

M/Y SUNDANCE, Official No. 521498, A
HATTARAS MOTORYACHT OF
APPROXIMATELY 33 FEET IN LENGTH
AND 12 FEET IN BEAM, AND ALL OF HER
ENGINES, TACKLE, ACCESSORIES,
EQUIPMENT, FURNISHINGS AND
APPURTENANCES, *in rem*,

Defendant.

Civil No. 07 CV 2015 DMS (WMC)

IN ADMIRALTY

ORDER FOR INTERLOCUTORY
VESSEL SALE

F.R.C.P. Supplemental Admiralty
Rule E(9)

SUBMITTED ON PAPERS
(Oral Arguments Not Requested)

Date: April 25, 2008

Time: 1:30 p.m.

Judge: Hon. Dana M. Sabraw

ORDER DIRECTING VESSEL

SALE AND AUTHORIZING CREDIT BID

CONSIDERING the Motion of Plaintiff SHELTER ISLAND YACHTWAYS, LTD.,
a California Limited Partnership, dba SHELTER ISLAND BOATYARD ("PLAINTIFF")
for an Order directing the public auction of the DEFENDANT VESSEL in this action, that
certain motoryacht of approximately 33 feet and 12 feet in beam, known as M/Y
SUNDANCE, U.S. Coast Guard Official No. 521498, and all of her engines, tackle,
accessories, equipment, furnishing and appurtenances, and having duly considered any and
all supporting any opposing papers, and good cause therefor appearing,

1 **IT IS HEREBY ORDERED** that, consistent with Supplemental Admiralty Rule
2 E(9)(B) and Local Admiralty Rule E.1(e)(2), the United States Marshal be and hereby is
3 directed and empowered to sell said DEFENDANT VESSEL and her engines, tackle,
4 accessories, equipment, furnishings and appurtenances, as is, where is, at public sale at the
5 first available time and date, after having first caused notice of said sale to be published daily
6 in a newspaper of general circulation within the City of San Diego, California for at least six
7 days immediately before the date of sale; and

8 **IT IS FURTHER ORDERED** that such public notice specify the date, time and
9 location for the sale of the DEFENDANT VESSEL; and

10 **IT IS FURTHER ORDERED** that, consistent with Local Admiralty Rule E.1(e)(2),
11 such public notice shall specify that the last and highest bidder at the sale will be required to
12 deposit with the U.S. Marshal cash, certified check or a cashier's check in the amount of the
13 full purchase price not to exceed \$500, and otherwise \$500 or ten percent (10%) of the bid,
14 whichever is greater, and that the balance, if any, of the purchase price shall be paid in cash,
15 certified check or cashier's check before confirmation of the sale or within three days of
16 dismissal of any opposition to confirmation which might have been filed, exclusive of
17 Saturdays, Sundays and legal holidays; and

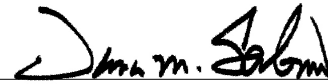
18 **IT IS FURTHER ORDERED** that, after the U.S. Marshal deducts any sums to
19 which it is statutorily or otherwise entitled by law to receive in connection with the sale of
20 the DEFENDANT VESSEL, all proceeds of said sale be deposited by the United States
21 Marshal in the Registry of this Court, to abide further Order(s) of this Court; and

22 **IT IS FURTHER ORDERED** that PLAINTIFF, having a secured maritime lien
23 interest in the Defendant Vessel pursuant to the Commercial Instruments and Federal
24 Maritime Lien Act (46 U.S.C. section 31301, *et seq.*) and the General Maritime Law of the
25 United States as a consequence of the trespass of the DEFENDANT VESSEL, and being the
26 only claimant in this action asserting a maritime or any other claim against her, is authorized
27 pursuant to Local Admiralty Rule C.1(e)(2) to credit bid at the auction of the DEFENDANT
28 VESSEL, without payment of cash, a sum equal to its secured interest in the DEFENDANT

1 VESSEL, consisting of the lien amount specified in the Verified Complaint (\$1,800.00) plus
2 lay day charges calculated at PLAINTIFF's standard rate of \$2.00 per foot of vessel length
3 (here \$66.00 per day) that accrued between October 17, 2008 (when she arrived at
4 PLAINTIFF's boatyard) and the date of her arrest, and the actual costs of suit through the
5 date of the sale, including U.S. Marshal and other *custodia legis* expenses. However, as
6 PLAINTIFF's secured interest in the DEFENDANT VESSEL does not, as a matter of law,
7 include attorneys' fees, such fees are not to be included in any credit bid PLAINTIFF might
8 make at the auction.

9 **IT IS SO ORDERED.**

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11 DATED: April 21, 2008



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13 HON. DANA M. SABRAW
14 United States District Judge
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